



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Los Angeles Region

(50 Years Serving Coastal Los Angeles and Ventura Counties)

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Gray Davis
Governor

REVISED DRAFT - 10/10/00
(see bold print in Items 12 & 15 only)

Los Angeles Regional Water Quality Control Board

Minutes of the August 31, 2000, 433rd Regular Board Meeting

The Richard H. Chambers U.S. Court of Appeals
125 S. Grand Avenue, Pasadena, California

INTRODUCTION

1. The meeting was called to order by Chairman Nahai at 9:07 a.m.

Board Members Present

Susan Cloke, Jack Coe, Francine Diamond, Marilyn Lyon, Robert Miller, H. David Nahai

Board Members Absent

Timothy Shaheen

Staff Present

Dennis Dickerson, Jorge Leon, Dennis Dasker, Deborah Smith, Ronji Harris, Sonja Gettel, Laura Gallardo, Wendy Phillips, Hugh Marley, Rick Vergets, Jack Price, Morton Price, Gary Schultz, Rodney Nelson, Jonathan Bishop, Mark Pumford, Karen Caesar, Dixon Oriola, Yue Rong, David Bacharowski, Blythe Ponck-Bacharowski, Thizar Tintut-Williams, Samuel Unger, Cathy Chang

Others Present

Mark Gold, Heal the Bay
Glenn Brown, Citizen
Walter Crone, Ninyo & Moore
Jim Langley, City of Los Angeles
Paul Martyn, L.A. County Sanitation District
Avery Chan, CALTRANS
Adel Hagekhalil, City of Los Angeles
Greg Lovato, USEPA
Mary Jane Forster, SWRCB
Tom Chandler, Harding ESE

Steve Fleischli, Santa Monica Baykeeper
Jennifer Sasaki, Northrop
June Nguyen, L.A. County Sanitation District
Jim Colbaugh, Las Virgenes Municipal Water District
Shirley Pak, CALTRANS
Barry Berggren, City of Los Angeles
George Muse, Metropolitan Water District of Southern California
Stacey Bailey, Ketchum

Cindy McAfee, Malibu Creek Plaza
Drew Ackerman, SCCWRP

Jeff Bouse, L.A. County Department of Public Works

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Hazel Scotto, LWV
Jim Dragna, McCutchen Doyle
Tim Buresch, Alameda Corridor Transportation
Authority
Steve Bay, SCCWRP
Larry Russell, Alameda Corridor Transportation
Authority (ACTA)
Jane Bray, Bray Consulting
Council
Georgiana McBurney, Citizen
Joseph Lawrence, City of Santa Monica
Dean Isaacson, DIDM Development Corporation

Kelly McGee, American Oceans Campaign
Grant Adamson, Serra Canyon Company
Sharon Rubalcava, Weston, Benshoof
Richard Wagener, Los Angeles County, DHS
Judy Wilson, City of Los Angeles Bureau of
Sanitation
Victor Peterson, City of Malibu
Richard Sol, Winter Canyon Condominium
Steven Braband, Bio Solutions
Kate Vernez, City of Santa Monica
Chuck Paine, Shell Oil Company/Equilon
Alan Block, Law Offices of Alan Block

1. Roll Call.

A roll call was taken.

2. Order of Agenda.

The Executive Officer, Dennis Dickerson recommended the following changes to the Agenda:

- *Remove Item 8.1 (USC Wrigley Institute)*
- *Remove Item 8.3 (Chevron USA)*
- *Remove Item 13 (County of Los Angeles Department of Public Works, Malibu Mesa)*
- *Remove Item 14 (County of Los Angeles Department of Public Works, Malibu Mesa)*

The Board members recommended to following items be removed from the consent calendar:

Item 8.2 (Northrop Grumman Corporation)
Item 16 (Oxnard Forebay – tentative Resolution)

Motion: By Mr. Lyon, seconded by Ms. Diamond and approved on a voice vote.

3. Approval of Regular Meeting Minutes of July 27, 2000, and Minutes of the July 29, 2000 Annual Regional Board Budget and Priority Setting Meeting.

MOTION: By Mr. Coe, seconded by Mr. Miller, and approved on a voice vote.

4. Recognition Ceremony.

The Chair presented a Resolution to Mary Jane Forster, member of the State Water Resources Control Board, for her outstanding service as the liaison to the Los Angeles Regional Board.



4.1 Supervisory Performance Awards.

The Chair presented Awards of Appreciation to David Bacharowski, and Hugh Marley for their outstanding supervisory performance.

5. Board Member Ex Parte Communication Disclosure.

During the course of the meeting, Chairman Nahai received a call (on his voice mail) from someone with respect to Item 15, De Ville Way Condominiums indicating that the applicants want to continue their current permit, so that their building permit will not be jeopardized.

6. Public Forum.

Jim Colbaugh, Las Virgenes Municipal Water District, gave brief comments to the Board on ~~the Tapia permit~~ minimum flows in Malibu Creek to protect fish and a wetlands project using releases from the District's Tapia plant.

Jim Langley, City of Los Angeles, Bureau of Sanitation briefed the Board on the new activities in the City relating to water quality improvements.

Mark Gold, Heal the Bay, commented ~~on the Tapia permit, and the letter from Jim Colbaugh in reference to the Tapia permit~~ on low flows in Malibu Creek. The major goal is to project the steelhead fishery. He also stated the Regional Board is late in setting nutrient levels in the Tapia permit.

7. *The Consent Calendar was adopted as follows:*

There were no uncontested items.

The Executive Assistant read the opening statement.

Chairman Nahai gave the oath to those testifying before the Board.

8. Consideration of NPDES Permit Requirements

8.2 Northrop Grumman Corporation

Mark Pumford gave the staff presentation to the Board. He ~~Mr. Pumford~~ gave a brief background history to the Board, and summarized the revisions, beneficial uses, and the compliance history of the permit. Staff recommended that the Board adopt the revised permit.

Ms. Cloke questioned Mr. Pumford about reverse osmosis and other treatment systems.



Deborah Smith made comments to the Board. Ms. Smith requested changes to findings on page 8.8 to chloride, and page 8.22 for the same finding on the change sheet to add chloride to the list of water quality problems for Arroyo Conejo.

Jennifer Sasaki asked the Board if they would defer making a decision today with the present TDS and chloride limits. She asked the Board to consider a possible variance to raise the TDS and chloride limits at this site due to with staff's recommendation because the groundwater extracted exceeding proposed effluent standards. She denies that the contaminants are attributed to Northrop Grumman operations. She added that the discharge percolates and does not reach any stream so it should not be considered an NPDES Permit.

Jorge Leon, Chief counsel responded to the legal questions raised by the Board.

Ms. Cloke asked staff about Northrop Grumman's compliance background.

Dennis Dickerson responded that the site has been in non-compliance, and it has been their the discharger's choice to be in non-compliance for some time with these particular standards. He stated that all the flexibility is with the discharger with regard to what can be done to ensure the water is meeting the standards that the Board is forced to establish.

Deborah Smith informed the Board that the State Board no longer has a grant program, but has a loan program and that she would share the information with the discharger.

Ms. Diamond stated that this program might encourage more dischargers to perform environmental cleanup.

Boardmember Coe made a statement regarding the costs associated with the treatment plant and disposal of brine. He also stated that this is a long-term project and the capital costs considered on an annual basis are really not that large in order to maintain proper water quality.

After much discussion by the Board, there was a motion to adopt the revised permit with the following changes:

- Page 88, in the second line at the top of the page the word "chloride" be inserted between the words "TDS" and "toxicity" and the exact same change to occur on page 8-22*

MOTION: By Chairman Nahai, seconded by Ms. Cloke, and approved on a voice vote.

ENFORCEMENT ISSUES



9. Consideration of a tentative Cease and Desist Order (CDO) Directing Alameda Corridor Transportation Authority (ACTA) to Cease and Desist Dry Weather Discharges Covered under the NPDES Permit for the Mid-Corridor Trench Construction Project.

Deborah Smith, Assistance Executive Officer gave the staff presentation. She addressed the Time Schedule Order requirements, the permit history, and other background information. Ms. Smith informed the Board that the comment letters from environmental groups were supportive of sewerage discharge but would like the definition of "dry weather discharges" to be more clearly defined in the permit. She also stated that EPA is in support of the permit.

Staff recommendation is that the Board adopt the tentative Cease and Desist Order with the recommended changes.

Tim Buresch, Alameda Corridor Transportation Authority gave testimony to the Board on behalf of ACTA. Mr. Buresch supports staff recommendation. He discussed the proposal to cease dry weather discharge to Dominguez Channel. He informed the Board that Alameda Corridor will begin discharge to the Los Angeles County Sanitation District sewer system, and discussed the terms of the LACSD permit with the Board.

Sharon Rubalcava, counsel to ACTA testified before the Board. Ms. Rubalcava commended Regional Board staff for their time and efforts on the tentative Cease and Desist Order. Ms. Rubalcava also mentioned the amount of time and effort the oversight committees and peer reviewers have spent working with this matter. She stated that ACTA supports the Cease and Desist Order as proposed.

Mark Gold, Heal the Bay gave testimony to the Board on this matter. Mr. Gold supports the Cease and Desist Order's requirement to prohibit dry weather discharges to Dominguez Channel. He recommends that the CDO ~~be more specific with regards to prohibit co-mingling~~ of ground water and stormwater runoff.

Steve Fleischli, Santa Monica BAYkeeper gave testimony to the Board. He commended staff for the diligent effort on this CDO. He expressed that he does not believe the Best Management Practices are yet in place. Mr. Fleischli recommends that the Board move forward with penalties for any violations ~~from~~ by ACTA ~~now or in the future~~. He stated that stormwater during and after construction and "co-mingling" remains unresolved issues.

Jorge Leon, staff counsel stated that the Board should provide direction to staff on how it wished staff to proceed.

Boardmember Coe stated he felt the CDO was unnecessary, confusing, and invited controversy.



After much discussion by the Board, there was a motion to adopt the tentative Cease and Desist Order with changes recommended by the Board on pages 9-7 (#13 and #14) and 9-8 (#1 and #14).

Major changes follow:

- *Add the definition of "Dry Weather" to this permit (solely for the purpose of this permit).
"For purposes of this permit, ~~open to~~ "dry weather" is defined as any period when rainfall is one tenth of an inch or less within a 24-hour period. "Following a this defined rainfall event, discharges to the sanitary sewer shall resume not more than 32 hours after cessation of rainfall."*

"The discharger retain a permit from LACSD (permit number) to transfer or divert dry weather discharges to the ~~Los Angeles County~~ LACSD system.

MOTION: By Chairman Nahai, seconded by Diamond, and approved on a voice vote. Board member Coe voted "no".

10. Consideration of a Stipulated Agreement No. 00-064, between the California Regional Water Quality Control Board – Los Angeles Region and Shell Oil Company/Shell Products, and Equilon Enterprises, LLC, for the Implementation of the Initial Regional Response Activities within the Charnock Sub-Basin Investigation Area.

David Bacharowski, Chief in the Underground Storage Tank Program provided brief background information to the Board as far back as 1995. He informed the Board that in 1997 a Memorandum of Understanding (MOU) between the Regional Board, and USEPA was developed for assessment and cleanup of the Charnock sub-basin. He informed the Board that the Stipulated Agreement and the Scope Of Work were agreed upon by both technical and legal representatives from the Regional Board, USEPA and Shell; and that prior to the issuance of the Stipulated Agreement, and the Scope Of Work, the impacted parties were provided with an opportunity to review and comment on the agreement.

*The Board asked Mr. Leon, staff counsel legal questions.
Mr. Leon responded to the questions asked by the Board.*

*The Executive Assistant read the opening statement.
Chairman Nahai opened the public hearing and administered the oath to those testifying before the Board.*

Mr. Joseph Lawrence, City of Santa Monica, Assistant City Attorney testified before the Board. Mr. Lawrence stated that the language proposed as part of the agreement between the Regional Board and Shell was ~~is not~~ a new concept. He indicated that the language had been used in orders that were issued in 1999. He indicated that he



believes it inappropriate for Shell to strike out language in the agreement, and inappropriate for staff to approve strike out language in the agreement.

Mr. Chuck Paine, Remediation Manager at Shell Oil Company/Equilon stated that the agreement which he signed with the Board does not preclude anyone's rights, and that he negotiated the agreement with the Board in good faith.

After much discussion by the Board, there was a motion to adopt the Resolution with the "strike out" and #3 on page 10-4 was moved to the "Resolve" section, and the following changes:

- *Eliminate Finding No. 24 from the July 27, 2000 version of the Stipulated Agreement,*
- *Include a line on each page of the Stipulated Agreement for the Shell/Shell Products/Equilon representative to initial, and*
- *Modify the Regional Board Resolution by Relocating finding number three under the "Therefore Be It Resolved That" portion of the Regional Board Resolution, and add the following wording; "... (City of Santa Monica and/or Southern California Water Company) or any other governmental agency or individual,..." The final wording is as follows:*

"The issuance of this Stipulated Agreement and the obligations imposed by it are not intended to limit any claims or rights under applicable laws that any Impacted Party (City of Santa Monica and/or Southern California Water Company) or any other governmental agency or individual, may have or assert arising from the contamination of the Charnock Sub-Basin."

MOTION: By Chairman Nahai, seconded by Mr. Coe, and approved on a voice vote.

11. Consideration of a revised Cease and Desist Order No. 98-073 for the City of Los Angeles, Hyperion Service Collection System, deferring construction of a 3-mile segment of a new relief sewer, subject to the City maintaining and taking necessary actions to assure adequate hydraulic capacity in the existing sewer.

The Executive Assistant read the Opening Statement.

Chairman Nahai administered the oath to those testifying before the Board on this matter.

Wendy Phillips gave the staff presentation. Ms. Phillips clarified the difference between the existing CDO and the revised CDO for the City of Los Angeles. She indicated that the City has asked the Board to revise the existing Cease and Desist Order and the reason. She gave some background information to the Board, and stated that staff



recommendation is that the Board adopt the tentative CDO as proposed with the changes noted on the change sheet.

Boardmember Diamond referred to a letter written by EPA which concurred with the Board's revised CDO as long as there were some conditions considered by the Board, i.e. that the City provide more accurate predictions of the capacity of the NOS and the La Cienega Sewer System to handle wet weather.

Sam Unger, Regional Board staff Enforcement & Special Projects unit addressed Ms. Diamonds concerns on this issue.

Judy Wilson, City of Los Angeles Bureau of Sanitation ~~gave testimony to~~ testified before the Board, ~~on behalf of the City of Los Angeles.~~ Ms. Wilson addressed the City's concerns ~~of~~ about the adequacy of the City's hydraulic modeling, a sophisticated program called "MOUSE ". She stated that the City is working on improvements to ~~their~~ its system. The City of Los Angeles requested ~~that~~ the Board to amend the tentative CDO with the proposed changes by staff.

Ms. Cloke wanted additional background/history information on the existing permit.

Ms. Wilson provided additional background/history information to Ms. Cloke.

Adel Hagekhalil, City of Los Angeles Wastewater Collection Manager, gave testimony to the Board. He addressed the El Nino rainfall events, and the numerous wet weather overflows occurrences during El Nino. Mr. Hagekhalil opposes the issuance of a new CDO, and asked staff the reason for the language change in the new CDO.

Steve Fleischli, Santa Monica BAYkeeper, expressed his support of the CDO with the exception of the "flow split", addressed on page 2 of the Baykeeper letter. He recommend the Board rescind, and reissue ~~to~~ the CDO.

Mark Gold, Heal the Bay recommended ~~that~~ the Board approve the CDO with the recommendations provided by EPA, and the public ~~should~~ have an opportunity to comment on the final work plan.

Mr. Gold responded to questions asked by the Board.

After much discussion by the Board, there was a motion to approve the CDO with changes listed as follows:

- *Page 11-16, paragraph C should read "The City shall install at least two flow meters in the northern NOS by October 31, 2001, and shall calibrate these meters by October 31, 2002."*



- *Change sheet – Page 11-17, paragraph No. 7 “Cease and desist order No. 00-XX supersedes the cease and desist order 98-073 of September 15, 1998, which is hereby rescinded.” Eliminate the rest of the paragraph and go on to say “ Rescission of the CDO does not relieve the City from possible enforcement for violations of order No. 98-073.”*
- *Page 11-62, on page 11-16 at the end of paragraph D, insert a paragraph e which reads “The ability or inability of the NOS line to accommodate any flow at the San Fernando Valley-flow split. And f, the City’s formal policy and protocol for evaluating conditions under which a San Fernando Valley full-split of anything other than 100 percent LACFRS/zero percent NOS is justified.*

MOTION: By Ms. Lyon, seconded by Ms. Cloke, and approved on a voice vote.

12. Consideration of Wastewater disposal issues in the Malibu coastal area. To provide the Board with options, including a septic tank prohibition.

Wendy Phillips gave an overview of the study and proposed some options to the Board. To provide

Rick Vergets, Enforcement and Special Projects Unit, gave a presentation to the Board on wastewater disposal issues in the Malibu coastal area, including the preliminary results from a technical investigation. ~~performed in the Malibu coastal area.~~ Mr. Vergets expressed the reasons for the areas of study and the objective of the study.

Victor Peterson, Environmental & Building Safety Director, City of Malibu ~~expressed stated to the Board that~~ he is not pleased that sufficient timing was not given ~~on the~~ for the City to review the staff report. He also indicated that the budget information ~~issues~~ ~~are~~ is not accurate in the report, with regard to package plants. He believes that there is a need for a balanced report, and recommended that the Board direct staff to jointly put together a new report with the City of Malibu staff, and Woodward Clyde, a consulting firm retained by the City.

Mark Gold, Heal the Bay urged the Board to expand the study to areas outside the City of Malibu and include in the scope a determination of the relationship between lagoon level and the distance between ground water levels and ground surface.

Others who addressed this matter include:

Grant Adamson, Serra Canyon Company
Georgianna Mc Burney, Winter Canyon Condominium Association
Steven Braband, Bio Solutions/ Malibu Bay Company
Richard Sol, Winter Canyon Condominium Council

The Board requested staff to:

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- **Proceed with WDR's**
- **Firm up data as needed**
- **Meet with City of Malibu staff**
- **Consider adding more resources to the total Malibu effort.**
- **Provide Board with options, include a septic tank prohibition.**

15. Consideration of revision of Non-NPDES Permit Requirements for Chatteau de Ville LLC, DeVille Way Condominiums (aka Chatteau De Ville), Malibu.

Dennis Dickerson gave a brief summary to the Board on this matter, touching core issues. Mr. Dickerson gave background information to the Board on the Malibu Treatment Plant, and the septic systems, and the ~~requests of~~ Chatteau DeVille Way Condominiums' commitment to upgrade the Malibu Treatment Plant. Staff recommended that the WDR be adopted, with a limitation as to the time, so the connection can take place.

Wendy Phillips, Board staff, gave background information to the Board on this matter, and information on the permit issued in 1990.

Alan Block, Chatteau DeVille Way Condominiums, ~~gave testimony to the Board on this matter.~~ Mr. Block asked the Board not to rescind the permit until August 31, 2001. He stated that if the Board takes action at this time, there could be problems ~~for~~ with the City of Malibu. Mr. Block opposes staff's recommendation.

Dean R. Isaacson, DIDM Development Corporation requested that the Board defers this matter until August 31, 2001, and adds a clause into the permit which stipulates that there will not be a discharge without the approval of the Executive Officer.

Richard Sol, Winter Canyon Condominium Council has concerns about the properties that will be impacted by discharge of the septic tanks on De Ville Way properties.

*Jeff Bouse, Los Angeles County Department of Public Works, responded to questions by the Board. He also stated funding had not been obtained from the SWRCB for expansion of the treatment plant. However, he believes the work will be done by August 3, 2001. County has awarded the contract for the work based on the \$557,000 deposit by Chateau de Ville. After much discussion by the Board, there was a motion to continue this matter until the October 12, 2000 Regular Board Meeting. **The Board asked staff to:***

- **Check with the SWRCB on the status of funding.**
- **Obtain the City of Malibu's views on requirements for a building permit.**
- **Talk to LACDPW on status of construction of the plant.**

MOTION: By Ms. Cloke, seconded by Ms. Diamond, and approved on a voice vote.



16. Consideration of a tentative Resolution endorsing peer reviewer comments for Resolution 99-13: "Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate a Septic System Prohibition in the Oxnard Forebay."

Rick Vergets gave the staff presentation before the Board.

MOTION: By Ms. Cloke, seconded by Ms. Diamond, and approved on a voice vote.

17. Consideration of a tentative Resolution approving use of a Regional Board Hearing Panel to conduct Evidentiary Hearings for Cease and Desist Orders (CDO) and Administrative Civil Liability Complaints (ACL) as authorized by the California Water Code and to establish procedures to conduct such Hearings.

Dennis Dickerson, Executive Officer made a brief presentation to the Board on this matter.

Steve Fleischli, Santa Monica Baykeeper addressed his concerns about the drafting of the Resolution.

After some discussion by the Board, there was a motion to adopt the tentative Resolution with the following change:

- *Page 17-2, #9 add and Chair, following "The Executive Officer " (Procedural changes)*
- *Page 17-3, #2 add and Chair, following "The Executive Officer"*
- *Page 17-3, #3 add and Chair, following "The Executive Officer"*
- *Page 17-3, #4 Panel Members will be designated by the Chair on a rotational basis.*
- *Page 17-3, #11 delete the whole paragraph as it is written. Will establish a "working committee" to look at the process.*

In addition to the resolution, the Board reviewed a draft set of procedures regarding the conduct of the hearing panel process. The following changes were recommended:

Page 17-3, #11; The proposed language of this paragraph was augmented by the Regional Board by the addition of language that binds the Regional Board to accept the findings of fact made by the Hearing Panel.

Additionally, the Board provided its direction by suggesting the creation of a "working committee" to review the hearing panel process and to offer changes to the procedures which are expected to be modified on the basis of lessons learned as this process is used.

Finally, the Regional Board conceptually discussed situations where a party requests a full evidentiary hearing and whether a choice exists with the party of using the hearing panel or if a full evidentiary hearing must be heard by the full Board. Our legal counsel was to be queried on this question.



MOTION: By Ms. Cloke, seconded by Mr. Miller, and approved on a voice vote.

The meeting was adjourned at 9:02 p.m.

Minutes adopted at the _____ Regular
Board Meeting submitted/amended.

Written and submitted by: _____.

